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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,302	09/09/2003	William Shelmon	TTC-13002/08	2137
63796 7590 07/16/2007 GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C. P.O. BOX 7021 TROY, MI 48007-7021			EXAMINER LARSON, JUSTIN MATTHEW	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 07/16/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/658,302

Applicant(s)

SHELMON ET AL.

Examiner

Justin M. Larson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5 and 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Dennison (US 879,370 A).

Regarding claim 1, Dennison discloses a collapsible container holder assembly comprising a carrier portion (B) having a recessed opening; at least one container receptor portion (A) having a generally horizontal support surface (either foot of a), said receptor portion being adjustable relative to said carrier portion as claimed; and a locking mechanism as claimed, comprising an arm (a first one of d) parallel to a rim (a second, adjacent one of d) on an exterior surface of said container receptor portion; and a flange (h) on an interior surface of said carrier portion. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Dennison which is capable of being used in the intended manner, i.e., for carrying a container in a vehicle where the horizontal support surface supports a bottom end of the container. There is no structure in Dennison that would prohibit such functional intended use (see MPEP 2111).

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Regarding claim 5, the at least one container receptor portion (A) of Dennison includes at least one retaining arm (a third one of d) disposed on an exterior surface, where the retaining arm is operative to prevent the container receptor portion from being pushed out from the carrier portion when engaged with a flange (h) of the carrier portion, effectively satisfying the limitations of the claim.

Regarding claim 11, the flange (h) of Dennison is parallel to the arm (d).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlesener (DE 10101642 A1) in view of Dennison as applied above.

Schlesener discloses a collapsible container holder assembly comprising a carrier portion (5) having a recessed opening; at least one container receptor portion (3) having a generally horizontal bottom support surface (3), said receptor portion being adjustable relative to said carrier portion as claimed; and a locking mechanism.

Schlesener fails to disclose the locking mechanism comprising an arm and rim on an exterior surface of the receptor portion and a flange on an interior surface of the carrier portion. Instead, Schlesener discloses a protrusion (4a) and slot (5b) telescoping mechanism.

Dennison, however, teaches that a receptor portion (A) can be telescopically adjusted with respect to a carrier portion (B) via an arm (one of d) and a rim (another, adjacent one of d) on an exterior surface of the receptor portion and a flange (h) on an interior surface of the carrier portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the telescoping mechanism of Schlesener with an arm/rim and flange mechanism, as taught by Dennison, since both telescoping mechanisms are known and would allow the container receptor portion to be adjusted relative to the carrier portion.

5. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dennison as applied in paragraph 2 above or Schlesener in view of Dennison as applied in paragraph 4 above, either in view of Davidson (US 2,893,167 A).

Dennison and Schlesener as modified disclose the claimed invention except for the arm of the locking mechanism having a boss and the flange of the locking mechanism having a recess for receiving the boss to resist rotation of the arm with respect to the flange. In the locking mechanism taught by Dennison, the surfaces of the arm and the flange have no boss/recess and are capable of sliding and rotating freely with respect to one another such that the arm can slide too far and come disengaged from the flange at which point the assembly collapses. Davidson, however, teaches that two sliding surfaces can include a boss/recess arrangement, with the boss (15) on one surface (12) and the recess (16) on the other surface (13), preventing the surfaces from sliding freely with respect to one another. It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement a boss/recess

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arrangement on the arm and flange of either the Dennison or modified Schlesener devices, in the manner taught by Davidson, so that the arms of the respective container receptor portions would not inadvertently rotate so as to disengage from the flanges of the carrier portion, collapsing the container holder by mistake.

***Response to Arguments***

6. Applicant's arguments filed 4/19/07 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML  
7/9/07

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER